

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS DIVISION

TEMPEST HORSLEY,	)	
	)	
Plaintiff,	)	
vs.	)	No. 13-321
	)	
JESSICA TRAME, in her official	)	
capacity as Chief of the Firearms	)	
Services Bureau,	)	
	)	
Defendant.	)	

**CROSS MOTION FOR SUMMARY JUDGMENT**

NOW COMES the Defendant, JESSICA TRAME, by and through her attorney, Lisa Madigan, Attorney General for the State of Illinois, and, pursuant to Fed. R. Civ. P. 56, hereby moves for summary judgment, stating as follows:

1. Plaintiff was 18 years old at the time she filed her complaint in April, 2013.
2. Defendant is the Chief of the Firearms Services Bureau of the Illinois State Police, which, among other things, processes and evaluates applications for Firearm Owners Identification ["FOID"] cards and processes appeals to the Director of the Illinois State Police from denials of FOID card applications. (Ex. 1, Affidavit of Trame.)
3. Plaintiff seeks, via 42 U.S.C. § 1983, an injunction requiring the Defendant to process FOID card applications, including hers, from people between 18 and 21 years of age without a signature of a parent or legal guardian, and prohibiting Defendant from denying applications from individuals between 18 and 21, including Plaintiff's, based on age, notwithstanding the requirement in section 4(a)(2)(i) of the Firearm Owners Identification Card Act (430 ILCS 65/0.01 *et seq.*) that applicants under the age of 21 have the consent of a parent or guardian.

4. The Court should dismiss the complaint as not justiciable under the doctrines of standing, ripeness, exhaustion, and constitutional avoidance.

5. Although section 10(c) of the FOID Card Act allows an applicant to appeal the denial of his or her FOID card application to the Director of the Illinois Department of State Police, Plaintiff has not filed such an appeal with the Department. (Ex. 1, Affidavit of Trame.)

6. Further, Defendant is entitled to summary judgment because Illinois's restrictions on gun ownership and possession by persons under the age of 21 are outside of the scope of the Second Amendment. *Nat'l Rifle Ass'n v. Bureau of Alcohol, Tobacco, Firearms, & Explosives (BATFE)*, 700 F.3d 185, 203–04 (5th Cir. 2012), *cert. pending* No. 13-137.

7. In the alternative, Defendant is entitled to summary judgment because section 4(a)(2)(i) is constitutional under intermediate or strict scrutiny. *See BATFE*, 700 F.3d at 206–11.

8. A memorandum of law in support of this motion and in opposition to Plaintiff's motion for summary judgment is submitted herewith and incorporated herein.

WHEREFORE, Defendant requests this honorable Court enter judgment in her favor and against Plaintiff.

Respectfully submitted,

JESSICA TRAME, in her official capacity as Chief  
of the Firearms Services Bureau,

Defendant,

LISA MADIGAN, Attorney General,  
State of Illinois,

Attorney for Defendants,

Joshua D. Ratz, #6293615  
Assistant Attorney General  
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BY: s/ Joshua D. Ratz  
Joshua D. Ratz  
Assistant Attorney General

Of Counsel.

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 5, 2014, the foregoing document, Cross-Motion for Summary Judgment, was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Thomas G. Maag  
tmaag@maaglaw.com

and I hereby certify that on February 5, 2014, a copy of the foregoing document was mailed by United States Postal Service, to the following non-registered participant:

None.

Respectfully Submitted,

s/ Joshua D. Ratz  
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